

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT BROWN,

Petitioner,

v.

RICHARD MORGAN,

Respondent.

Case No. C05-5280FDB

ORDER WITHDRAWING REPORT
AND RECOMMENDATION,
ORDERING PETITIONER
TO USE THE CORRECT CASE
NUMBER AND GRANTING AN
EXTENSION OF TIME TO FILE
A REPLY

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates' Rules MJR 3 and MJR 4. This action was filed twice. In the first filed case, the petitioner was not properly identified by the court in the caption. When the second petition was filed the error came to the courts attention and the caption was corrected. The parties were informed the case would proceed under the first cause number, CV 05-5289FDB and that the second case was closed. Petitioner was told to use CV 05-5289FDB as the active case number. (Dkt. # 4).

ORDER- 1

1 The respondent filed a dispositive motion instead of an answer. (Dkt. # 13). The petitioner
2 filed a motion for an extension of time to reply, but he filed that motion in the closed case and it did
3 not come to the courts attention prior to a Report and Recommendation being entered. (CV 05-
4 5314RJB Dkt. # 6).

5 The court on its own motion now withdraws the Report and Recommendation, orders
6 petitioner to use this case number for all further filings and **GRANTS** petitioner a 30 day extension of
7 time until **March, 10th, 2006** to file a reply to the motion to dismiss. No document filed in CV 05-
8 5314RJB will be considered by the court as that file is closed. The clerk is directed to send
9 copies of this order to petitioner and counsel for respondent.

10 DATED this 1st day of February, 2006.
11
12
13

14 
15

16 Karen L. Strombom
17 United States Magistrate Judge
18
19
20
21
22
23
24
25
26
27